CRITICAL ANALYSIS OF THE INTERSECTION BETWEEN ENVIRONMETAL SUSTAINABILITY AND MERGERS AND ACQUISITIONS

SHORT SYNOPSIS

Submitted in partial fulfillment of the requirement of the degree of

DOCTOR OF PHILOSOPHY

by

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Signature of the Supervisor
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ABSTRACT

Corporate mergers and acquisitions (M&A) significantly influence global economic landscapes, corporate governance, and sustainable development. As environmental risks become increasingly critical in corporate decision-making, integrating environmental sustainability into M&A has emerged as a pressing necessity. While International frameworks like the European Union's Environmental Liability Directive and the U.S. CERCLA set robust standards, India's current legal framework, including laws like BRSR (Business Responsibility and Sustainability's Reporting) by SEBI, NGRBC (National Guidelines for Responsible Business Conduct) Corporate Act 2013, and Other Laws, lacks comprehensive mechanisms for managing environmental risks in M&A.

This thesis examines the gaps in India's legal framework for environmental sustainability in Corporate M&A, focusing on research analyze the progress of Environmental Sustainability in India, To examine existing legal framework that integrates environmental sustainability within corporate mergers and acquisitions (M&A) in India, Furthermore, it examine International Environment legal standards, the Research further analysis how Environmental Sustainability increasingly influencing corporate M&A decisions, after identifying company report and comparing with govt. standard researcher identify existing Environmental Sustainability frameworks for exploring gaps and best practices, and at last researcher identify the deficiencies in the current legal system and propose a suggestion that integrates environmental sustainability within corporate mergers and acquisitions (M&A) in India

The study employ a doctrinal methodology. The researcher would collect data by using Primary Sources (like statute, rule, regulation and Annual Environmental Sustainability report of Company available on Company website) and Secondary Sources (like books, articles, reports, journals, online database and newspaper)

While collecting data from primary and secondary resources the researcher will focus upon collecting the same on issues concerning to environmental sustainability, legislative provisions relating to Corporate Mergers and Acquisition

It aim to critically assess the legal provisions, enforcement mechanisms, and existing gaps, leading to the development of proposed reforms in environmental sustainability for corporate M&A in India.

The expected outcomes of the research are twofold: contributing to the legal domain by addressing gaps in India's regulatory framework and benefiting society by fostering corporate practices aligned with environment sustainable goals. By proposing a comprehensive actionable legal and policy recommendations to strengthen environmental sustainability in the context of corporate M&A in India and improved regulatory compliance.

This thesis underscores the urgent need for reform in India's environmental Sustainability in Corporate Mergers & Acquisitions.

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INTRODUCTION

Corporate Mergers and Acquisitions (M&A) are pivotal in shaping the global economic landscape, often influencing corporate sustainability structures, regulatory compliance, and sustainable development practices. In recent years, there has been increasing recognition of the importance of integrating environmental sustainability into corporate transactions, especially M&A. Environmental considerations in M&A are no longer just a secondary concern but have become a key focus due to growing legal requirements, public awareness, and the risks associated with non-compliance.

Globally, legal frameworks such as the European Union's Environmental Liability Directive (ELD) and the U.S. Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) set high standards for environmental responsibility in corporate deals. These laws require due diligence on environmental liabilities, including contamination, emissions control, and adherence to environmental permits. They ensure that both acquiring and acquired entities are accountable for environmental risks, creating a legal nexus between corporate sustainability and environmental protection.

In India, environmental sustainability in corporate M&A is governed by various statutory and regulatory frameworks, including the *Environment Protection Act, 1986, the Air (Prevention and Control of Pollution) Act, 1981, the Water (Prevention and Control of Pollution) Act, 1974, EIA (Environmental Impact Assessment), and the National Green Tribunal Act, 2010*. These laws mandate environmental clearances and assessments for significant corporate transactions that may impact the environment. Moreover, regulations set by the Securities and Exchange Board of India (SEBI) and the Companies Act, 2013, also address corporate responsibility, sustainability, and environmental due diligence in M&A transactions.

However, despite these frameworks, there exists a significant gap in the integration of environmental sustainability into corporate M&A in India. Environmental risks are often inadequately assessed during due diligence processes, and enforcement

mechanisms remain inconsistent. While statutory frameworks exist, there is a lack of comprehensive guidelines specifically tailored to address environmental liabilities in M&A. Additionally, the absence of stringent monitoring and penalization post-M&A creates loopholes that companies may exploit, undermining the principle of sustainable development. This gap underscores the need for a doctrinal study that critically analysis and proposes suggestion for aligning environmental sustainability with corporate M&A activities in India.

This Thesis aims to address these gaps by offering an in-depth doctrinal analysis of existing laws and suggesting reforms to strengthen environmental sustainability in the context of corporate mergers and acquisitions in India.

LITERATURE REVIEW

I. The Author *of Environment, Development and Sustainability* explores the multifaceted interactions between socio-economic development and environmental impacts, focusing on achieving sustainability. It emphasizes interdisciplinary approaches to understanding and addressing these complexities, including technical, economic, ethical, and philosophical dimensions of sustainable development. The journal covers topics such as sustainable use of natural resources, development and application of sustainability indicators, and policy implementation for sustainable practices. It also addresses local, regional, and global sustainability challenges, examining practical solutions. Key areas include the effects of agriculture and forestry on ecosystems and biodiversity, as well as strategies for monitoring and achieving sustainable development goals, ensuring its relevance across disciplines but the author haven't mention the connection of Environment Sustainability and Merger and Acquisition [1].

[1] Hens, Luc. Ren, Jingzheng. (2024) *Environment, Development and Sustainability a Multidisciplinary Approach to the Theory and Practice of Sustainable Development*. Springer Nature.
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II. This research addresses the growth challenges of green buildings by developing a Green Building Sustainability Model validated through structural equation modeling. Highlighting the need for widespread commitment to green practices, the study explores relationships among nine constructs, including government, developers, buyers, and sustainable development, supported by twelve hypotheses. Using a questionnaire survey, the study underscores the critical role of government and stakeholder cooperation in fostering resource-efficient, sustainable development. Designed and tested in India, the model is adaptable for green building applications globally. It serves as a valuable reference for academics, policymakers, and practitioners, bridging research gaps and promoting sustainability in residential and commercial settings, the research haven't mention the interconnection of Environmental Sustainability and mergers and acquisitions[2].

III. The Author Covered aspects such as corporate governance, taxation, and regulatory compliance, it addresses crucial factors influencing M&A deals. While the book also delves into multiple regulatory dimensions, it remains unclear whether it explicitly covers environmental compliance requirements, a key consideration in modern M&A transactions. Environmental compliance is critical for ensuring that merging entities adhere to sustainability standards.[3]

IV. This book offers a comprehensive yet concise analysis of key areas such as mergers, acquisitions, corporate restructuring, and takeovers. Serving as a valuable resource for business management and law students, it integrates theoretical concepts with practical case studies, both from Indian and international perspectives. The 3rd edition is updated with recent developments, particularly regarding the Companies Act 2013, and includes insights into legal dimensions, deal valuation methods, financing options, and accounting practices. It is also enriched with case studies, including the Ranbaxy-Daiichy Sankyo deal, and explores strategic approaches to corporate restructuring. The

[2] Akhtar, Sohrab. Parihar, Satish. (2024) 'Developing a 'Green Building Sustainability Strategy' for Green Buildings in the Country of India', *Industrial Engineering Journal*, Vol. 53, No. 4.

[3] Kalra, Kush. (2024) Law Relating to Mergers and Acquisitions. India: *Central Law Publication*.

book is beneficial not only for students but also for professionals, consultants, and policymakers in enhancing their expertise in mergers and acquisitions.

This paragraph does not mention environmental governance[4].

V. Green technologies (greentech) encompass interdisciplinary, sustainable systems aimed at addressing environmental challenges. The field integrates renewable energy, pollution control, sustainable infrastructure, and green manufacturing, promoting efficiency, waste reduction, and resource recovery. Research spans environmental science, engineering, green chemistry, and smart technologies, advancing carbon neutrality, circular economy principles, and sustainable development goals. Greentech applications include renewable energy systems, sustainable transportation, energy-efficient designs, and intelligent systems for environmental monitoring and decision-making. Despite being nascent, greentech attracts growing interest due to climate change awareness and environmental degradation. The domain emphasizes innovative solutions to achieve ecological conservation, energy efficiency, and socioeconomic sustainability. Although the Author talked about effective Measure of Pollution control in Green Tech but they have not mention interconnection of Environment Sustainability and Mergers and Acquisitions. [5]

VI. Dr. S. R. Myneni's book *Law of Merger & Acquisition*, published by New Era Law Publication in 2021, offers a comprehensive overview of mergers and acquisitions, covering corporate restructuring, competition law, taxation, and securities regulations. However, the available descriptions of the book do not explicitly mention the inclusion of environmental compliance in mergers and acquisitions. It focuses more on the legal and financial aspects of M&A within the Indian context and includes international comparisons, but no specific reference is made to environmental laws in relation to these transactions.[6]

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[4] Kar, Dr. Rabi Narayan. Dr. Minakshi. (2023) *Mergers Acquisitions & Corporate Restructuring Strategies & Practices – an All-Encompassing Book Presenting a Harmonious Blend of Theoretical Concepts & Practical Aspects*, 3rd edn. 59/32, New Rohtak Road, New Delhi-110005: Taxmann Publications Private Limited.

[5] Wu, Jinsong. Strezov, Vladimir. (2023). 'Green Technologies and Sustainability', *Communications Co. Ltd. Publishing Services by Elsevier B.V.* Vol 1, Issue 1.

[6] Myneni, Dr .S.R. (2021) *Law of Mergers and Acquisitions*. New Era Law Publication.

VII. Compliance with complex environmental laws and regulations necessitates explicit justifications. This book offers a comprehensive guide to navigate the complexities, integrating sustainability and foresight into environmental practices. It provides up-to-date insights on regulations, sustainability concepts, and control permits, serving as a "step-by-step how-to" resource. Case studies and real-world examples show useful methods for assessing sustainability projects and getting ready for upcoming legal requirements. The book addresses diverse sustainability issues, including climate change impacts, extending beyond chemical contamination. Its global perspective makes it valuable for businesses planning international operations. By addressing practical compliance questions, it empowers organizations to meet current standards while anticipating future environmental requirements.[7]

VIII. Green Human Resource Management (Green HRM) integrates sustainability into HR practices, addressing environmental concerns while fostering corporate sustainability. Green HRM supports a sustainable corporate culture by coordinating HR operations like hiring, onboarding, training, performance reviews, and pay with environmentally friendly methods. Rooted in Corporate Social Responsibility (CSR), it emphasizes green governance and compliance with environmental laws. The approach promotes intellectual asset conservation and environmentally responsible HR strategies, raising awareness of sustainability's importance in workforce management. Green HRM supports ecologically beneficial operations, advancing sustainability goals while fostering employee awareness and participation in environmental initiatives, making it a critical strategy for modern organizations[8].

IX. Recent studies have shown that heavily polluting enterprises are increasingly adopting green mergers and acquisitions (GMA) to acquire green technologies and resources, aiming to upgrade and transform their industries. This research paper explored the impact of GMA on environmental protection investment

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[7] Rogers, Daniel T. (2022) *Environmental Compliance Handbook.* Edn. 3. Boca Raton, London: CRC Press, Taylor & Francis Group.

[8] Singh, Haridarshan. Hassan, Mohd. (2022) 'Green Hrm: A New Outlook to Safeguard Environment' *International Journal of Creative Research Thoughts (IJCRT)*, vol 10, Issue 7.

(EPI) in listed pollution-heavy companies and compares the effects of different GMA types on EPI. Using PSM-DID and nonlinear DID methods, the study finds that GMA enhances EPI, with horizontal GMA having a greater positive impact than vertical or mixed GMA. This study examined how GMA affected environmental protection investment (EPI) in publicly traded companies with high pollution levels and contrasted the impacts of various GMA types on EPI. Additionally, the study shows a U-Shaped time effect, in which GMA first lowers EPI before causing it to rise. Although GMA increases expenses, which hinders EPI, it also improves a company's standing with the public, its ability to finance projects, its access to subsidies, and its environmental consciousness. The analysis shows that horizontal GMA has the most significant impact during a company's growth stage, while vertical GMA is more effective during the maturation stage. However, in the recession stage, GMA tends to inhibit EPI.[9]

X. Mergers and acquisitions (M&A) have emerged as a crucial strategy for corporate restructuring in India, initially driven by government and financial institutions. The liberalization of the Indian economy in 1991 and increased global competition spurred Indian firms to adopt M&A as a key growth strategy. Over time, sectors such as IT and ITES have led M&A activities, with a notable rise in Indian companies acquiring foreign enterprises in recent years.

Key factors driving this trend include favorable government policies, economic buoyancy, ample corporate liquidity, and the dynamic mindset of Indian entrepreneurs. However, while M&A is a significant part of corporate strategy in India, research remains inconclusive about whether these deals improve efficiency or diminish value for companies.

Importantly, environmental sustainability has been largely neglected in Indian M&A transactions. Current legal frameworks do not require thorough environmental due diligence, leaving environmental risks and liabilities

[9] Lu. Juan, (2021) *Can the Green Merger and Acquisition Strategy Improve the Environmental Protection Investment of Listed Company.* Vol. 86, *Environmental Impact Assessment Review* [Online]. Retrieved From: https://doi.org/10.1016/j.eiar.2020.106470 [Accessed 13 Dec 2024].

inadequately addressed, with minimal emphasis on sustainability during the M&A process[10].

XI. The textbook *Mergers and Acquisitions* is designed for postgraduate management students and offers a comprehensive understanding of M&A concepts through examples and case studies, particularly in the Indian context. It covers key topics like corporate restructuring, takeovers, due diligence, valuation, and post-merger integration issues, including human and strategic aspects. It also delves into cross-border acquisitions and explores alternatives such as corporate divestments and strategic alliances. However, based on the available information, there is no explicit mention of the book addressing environmental compliance as part of the M&A process.[11]

XII. Mergers and acquisitions (M&A) have become a key tool for corporate restructuring, particularly in India. Initially driven by government initiatives and financial institutions, M&A activities gained momentum following India's 1991 economic reforms. The opening of the economy and increased global competition made M&A an essential strategy for Indian firms. Over time, M&A trends in India evolved, with sectors like IT and ITES leading the way, and Indian companies increasingly acquiring foreign enterprises, a trend that has surged in recent years.

Several factors have contributed to the rise in M&A activity, including favorable government policies, economic growth, corporate liquidity, and the proactive approach of Indian entrepreneurs. Despite the significance of M&A in India, research is inconclusive on whether these transactions enhance efficiency or harm value.[12]

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[10] Vikas, Bharara. Singh, Latwal Gopal. (2013) 'Indian Mergers and Acquisitions: Environmental Analysis in Current Competitive Business Environment', *IITM Journal of Management and IT,* Vol 4. Issue. 2. [Online] Retrieved From: https://www.indianjournals.com/ijor.aspx?target=ijor:iitmjmit&volume=4&issue=2&article=010 [Accessed 10 Dec 2024].

[11] Aurora, Rajinder S. *et.al.*, (2011). *Mergers and Acquisition*. Oxford University Press.

[12] Singh, Bedi, Harpreet. (2010) 'Merger & Acquisition in India: An Analytical Study' Paper Presented at the National Conference on Business Innovation conducted by Apeejay Institute of Management, Jalandhar-144001, Punjab, February, Retrieved From: SSRN: https://ssrn.com/abstract=1618272. [Accessed 11 Nov 2024].

However, environmental sustainability has largely been overlooked in M&A transactions. The current framework does not effectively mandate environmental due diligence, allowing environmental risks and liabilities to remain inadequately addressed during M&A deals. Thus, M&A activities in India have not sufficiently focused on promoting environmental sustainability. The research clearly focuses on environmental governance, highlighting how GMA strategies can drive environmental protection and sustainability initiatives within enterprises.

Thus, environmental performance is a sound criterion for evaluating the results of M&As. M&As can help companies gradually reorient the entire industrial chain toward environmental protection to reduce environmental pollution.

DESCRIPTION OF BROAD AREA

The integration of environmental sustainability within the legal framework governing corporate mergers and acquisitions (M&A) in India. M&A transactions significantly impact corporate governance, regulatory compliance, and sustainable development. While India's statutory frameworks, including the BRSR (Business Responsibility and Sustainability's Reporting) by SEBI, NGRBC (National Guidelines for Responsible Business Conduct) Corporate Act 2013, and Other Laws, mandate environmental assessments and clearances, significant gaps remain in their implementation.

The research analyze the progress of Environmental Sustainability in India, To examine existing legal framework that integrates environmental sustainability within corporate mergers and acquisitions (M&A) in India, Furthermore, it examine International Environment legal standards, the Research further analysis how Environmental Sustainability increasingly influencing corporate M&A decisions, after identifying company report and comparing with govt. standard researcher identify existing Environmental Sustainability frameworks for exploring gaps and best practices, and at last researcher identify the deficiencies in the current legal system and propose a

suggestion that integrates environmental sustainability within corporate mergers and acquisitions (M&A) in India

OBJECTIVES OF THE STUDY

- To analyze the progress of Environmental Sustainability in India
- To examine existing legal framework that integrates environmental sustainability within corporate mergers and acquisitions (M&A) in India.
- To examine International Environment legal standards.
- To analysis how Environmental Sustainability increasingly influencing corporate M&A decisions
- To identify existing Environmental Sustainability frameworks for exploring gaps and best practices.
- To identify the deficiencies in the current legal system and propose a suggestion that integrates environmental sustainability within corporate mergers and acquisitions (M&A) in India .

METHODOLOGY TO BE ADOPTED

The researcher would conduct research by adopting **doctrinal** methodology. The researcher would collect data by using Primary Sources (like statute, rule, regulation and Annual Environmental Sustainability report of Company available on Company website) and Secondary Sources (like books, articles, reports, journals, online database and newspaper)

While collecting data from primary and secondary resources the researcher will focus upon collecting the same on issues concerning to environmental sustainability, legislative provisions relating to Corporate Mergers and Acquisition

Through this study we will critically assess the legal provisions, enforcement mechanisms, and existing gaps, leading to the development of proposed reforms in environmental sustainability for corporate M&A in India.

EXPECTED OUTCOME OF THE RESEARCH

Research aims to contribute significantly to both societal and legal frameworks by addressing the gaps in environmental sustainability within corporate mergers and acquisitions (M&A) in India. The anticipated outcomes include:

- Comprehensive analysis of the current state and progress of environmental sustainability in India.
- Examine the effectiveness of existing Indian laws in integrating environmental sustainability within corporate mergers and acquisitions (M&A).
- Analyzing international environmental legal standards to identify key benchmarks for India.
- Highlight how environmental sustainability considerations are shaping corporate M&A decisions.
- Identification of Environmental Sustainable Gaps and Best Practices
- Suggest actionable legal and policy recommendations to strengthen environmental sustainability in the context of corporate M&A in India.

CHAPTERIZATION

- **Chapter 1: Introduction**

  1.1. Introduction

  1.2. Context of the Study

  1.3. Research Objective

  1.4. Hypothesis

  1.5. Research Methodology

  1.6. Literature review

  1.7. Chapterization

- **Chapter 2: Environmental Sustainability**

  2.1. Introduction

  2.2. Environment and Sustainability: Meaning

  2.3. Need for Promoting Environmental Sustainability(SDGs)

  2.4. Current Status of Environmental Sustainability in India

  2.5. Conclusion

- **Chapter 3: Analysis Indian Legislative Provision Governing M&A and Environmental Sustainability.**

  3.1. Introduction

  3.2. Key Guidelines of SEBI SDGs Guideline with respect to Environmental Sustainability

  3.3. Key Guideline of NGRBC by MCA for Environmental Sustainability

  3.4 Key Provision of Companies Act, 2013

    - A. Mergers
    - B. Acquisitions

  3.5. Other Law

  3.6. Landmark Case law

  3.7. The lack of Environmental Sustainability integration in Corporate M&A Processes .

- **Chapter 4: : International Legal Framework Governing M&A and Environmental Sustainability**

  4.1. Introduction

4.2. Key Provision of International Law

4.3. Landmark Case law

4.4. Comparing the lack of integration between Indian and International Law

- **Chapter 5: A Study on Promoting Environmental Sustainability Through Corporate Merger and Acquisition: Companies.**

  5.1 Introduction

  6.2 Vision and Mission of Companies.

  6.3 Environmental Report

  6.4 Sustainability Report

  6.5. Comparing with Legislature Limit

  6.7. Factor driving Environmental Sustainability increasingly influencing corporate M&A decisions

  6.6. Conclusion

- **Chapter 6: Suggestion & Conclusion and Recommendations**

  6.1. Suggestion

  6.2. Conclusion

  6.3. Recommendation

REFERENCE

1. Weston, J Fred. *et.al.*, *Mergers Restructuring and Corporate Control*. 1st edn. Noida, UP: Pearson India Education Services Pvt. Ltd.
2. Rogers, Daniel T. (2023) *Environmental Compliance Handbook, Sustainability and Future Environmental Regualtion*. 1st Edn. Boca Raton, London: CRC Press, Taylor & Francis Group.
3. Shastri. (2022) *Environmental Law*. 7th Edn. Delhi: Eastern Book Company.

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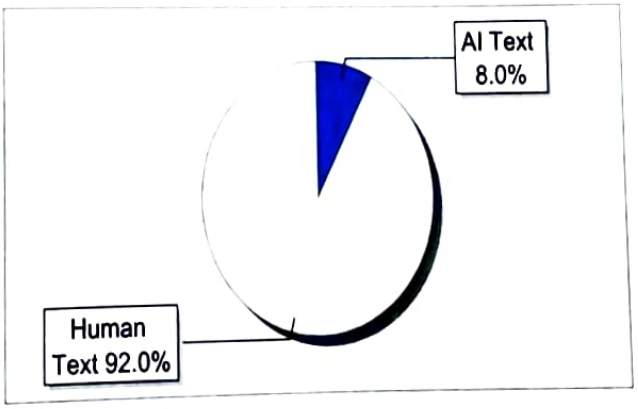

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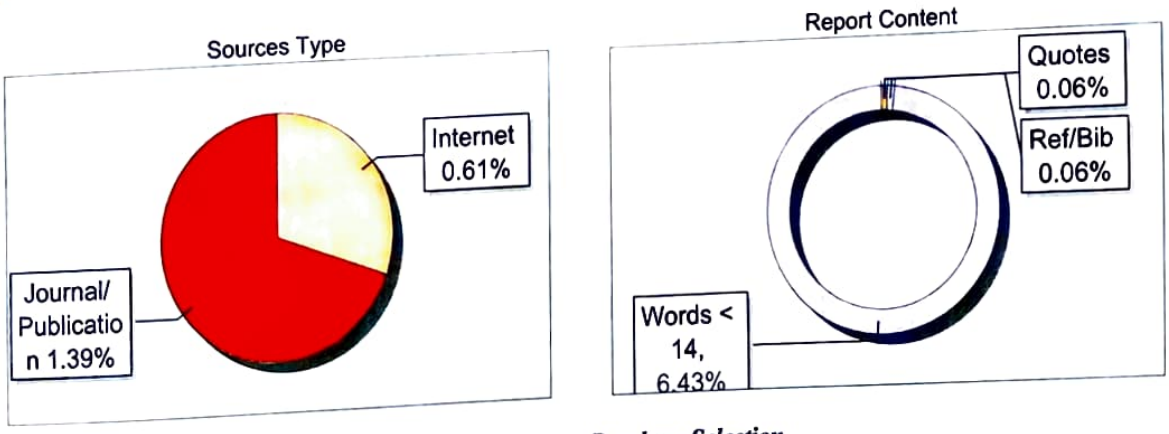

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Annexure-4

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ABSTRACT

Corporate mergers and acquisitions (M&A) significantly influence global economic landscapes, corporate governance, and sustainable development. As environmental risks become increasingly critical in corporate decision-making, integrating environmental sustainability into M&A has emerged as a pressing necessity. While International frameworks